

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Robert Graham, Jr.,)	
)	Civil Action No. 6:11-595-MBS-KFM
Petitioner,)	
)	<u>AMENDED REPORT OF</u>
vs.)	<u>MAGISTRATE JUDGE</u>
)	
State of South Carolina,)	
)	
Respondent.)	
_____)	

The petitioner, a state prisoner proceeding *pro se*, seeks habeas corpus relief pursuant to Title 28, United States Code, Section 2254.¹

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Civil Rule 73.02(B)(2)(c) DSC, this magistrate judge is authorized to review posttrial petitions for relief and submit findings and recommendations to the District Court.

A proper form order was filed on April 8, 2011, giving the petitioner until May 2, 2011, to bring the case into proper form, which the petitioner did not do. On April 18, 2011, the petitioner moved to dismiss the case without prejudice to give him an opportunity to exhaust his state remedies. The respondent has not been served in this case.

Wherefore, it is recommended that the plaintiff's motion be granted and this action be dismissed without prejudice.

January 25, 2012
Greenville, South Carolina

s/Kevin F. McDonald
United States Magistrate Judge

¹An amended report is necessary because the undersigned's original report, which was filed on April 21, 2011, mistakenly referred to the case as being filed pursuant to 42 U.S.C. § 1983.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
300 East Washington St, Room 239
Greenville, South Carolina 29601

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).